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Agenda item 10
Technical assistance and capacity-building

Note verbale dated 19 September 2018 from the Permanent Mission of Saudi Arabia to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of the Kingdom of Saudi Arabia to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR), and has the honour to refer to the note verbale from the Office of the United Nations High Commissioner for Human Rights dated 27 August 2018 regarding the report of United Nations High Commissioner for Human Rights containing the findings of the Group of Eminent International and Regional Experts on Yemen (A/HRC/39/43).

In this regard, the Permanent Mission of the Kingdom of Saudi Arabia would like to transmit, on behalf of the Coalition of States Supporting Legitimacy in Yemen, the response of the Coalition of States to the report of the High Commissioner (see annex), * and kindly requests that the present note verbale and the annex thereto be recorded as a document of the thirty-ninth session of the Human Rights Council, and that it be published on the OHCHR website.

* Reproduced as received, in the languages of submission only.

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Annex to the note verbale dated 19 September 2018 from the Permanent Mission of Saudi Arabia to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

Response of the Coalition States supporting legitimacy in Yemen to the report of the High Commissioner issued in document A/HRC/39/43

Introduction

Having studied the report of the High Commissioner for Human Rights issued in document A/HRC/39/43 dated 28 August 2018, entitled "Situation of human rights in Yemen, including violations and abuses since September 2014" and containing the findings, allegations, conclusions and recommendations of the Group of Experts concerning so-called violations of human rights in Yemen, together with the annexes appended thereto, the Coalition States supporting legitimacy in Yemen request the Human Rights Council to record this response as a document of the thirty-ninth session of the Council and publish it on the website of the Office of the High Commissioner for Human Rights.

The Coalition supporting legitimacy in Yemen wishes to emphasize that the said report is characterized by a lack of objectivity, the hasty manner in which it jumps to conclusions and its flawed methodology and content. The Coalition reaffirms that, in all its military operations, it complies fully with all the customary and treaty-based provisions of international humanitarian law and, in its treatment of civilians and civilian objects, shows due regard for all humanitarian norms and rules of international human rights law. The Coalition has never tolerated, and will never tolerate, any infringement of the legal principles regulating military operations and the accountability of persons responsible for any violations that might occur during such operations. The Coalition has taken measures and established a number of mechanisms to ensure that any mistakes that might be made during military operations are addressed in a prompt and transparent manner, as illustrated by the following:

(a) A Joint Incidents Assessment Team has been established. This independent team, consisting of technical specialists, looks into all allegations that it receives concerning military operations in Yemen, issues and makes public its findings in this regard and refers any suspects for further questioning and imposition of sanctions in accordance with due process of law;

(b) The Coalition Forces have set up a joint fund to provide voluntary aid in cases in which proven mistakes made during military operations cause collateral damage. Such voluntary aid has recently been provided, through the legitimate Government of Yemen, in a number of cases referred to the fund;

(c) The Coalition Forces have established a specialized standing committee to transmit the lessons learned from the military operations and include them in the rules of engagement in order to ensure that mistakes are not repeated.

In addition to the above, the legitimate Government of Yemen is also fully committed to international humanitarian law and international human rights law and does not tolerate any violations of its citizens' rights in any part of the territory of the Republic of Yemen, regardless of whether the violations occur in regions under its control or in regions in which armed Houthi militias supported by Iran are present. In this connection, a number of files received from the National Commission of Inquiry into Alleged Violations of Human Rights have been referred by the legitimate Government of Yemen to the Public Prosecution for further action.

I. Comment on the form, methodology and content of the report prepared by the Group of Experts

The Coalition supporting legitimacy in Yemen has cooperated in a diligent, open-minded and transparent manner with the Group of Experts since the latter's appointment by the High Commissioner on 4 December 2017. During the two meetings held with the Group at the Coalition's headquarters in Riyadh in the Kingdom of Saudi Arabia, all the requisite clarifications were provided and all of the Group's questions were answered with substantiating proof. The Group was received at the Coalition Operations Centre, where it was given an insight into the operational procedures, and it visited the King Salman Humanitarian Aid and Relief Centre. The Coalition also facilitated the Group's tasks during its visit to Yemen. However, notwithstanding all this, the Coalition has noted that the credibility of the Group's report is diminished by serious errors such as, in particular:

1. The report indicates that it covers the period from 1 September 2014 to the end of June 2018, i.e. more than three and a half years. According to the Human Rights Council resolution, the mandate of the Group of Experts was to be for a renewable period of at least one year. The length of this period, and the possibility of its renewal, were obviously intended to give the Group's members ample opportunity to conduct an objective, impartial and fair examination of past and present occurrences on the ground. In its report, the Group of Experts refers to the limited access, resources and time available to fulfil its mandate as defined in Human Rights Council resolution 36/31, which might explain the hasty manner in which the Group jumped to conclusions and made recommendations in its appraisal of the situation of human rights in Yemen. This haste is reflected in the description of the alleged occurrences and also in the arbitrary, unbalanced and biased nature of the Group's conclusions and recommendations, as can be seen from the following:

(a) The report fails to include the official replies that the Coalition States gave to the Group of Experts during the meetings that the Group and its secretariat held with the bodies concerned in the Coalition. The replies to the Group's questions and requests for information were subsequently transmitted officially to the Office of the High Commissioner;

(b) The content of the report lacks professionalism insofar as it includes occurrences and allegations concerning specific military targets that considerably detract from the Group's description of the nature of the military operations, some of which have complex security related aspects that need to be assessed by professionals with extensive technical and military experience. The report is therefore characterized by its superficiality;

(c) From the legal standpoint, it is an established principle that accusations concerning the commission of criminal acts must be based on certitude and credibility and not on conjecture or surmise. It is astonishing that the Group of Experts exceeded its mandate by basing its accusations on conjecture and "grounds to believe".

2. The Group's online call for submissions with a deadline of 1 June 2018 was not a proper professional procedure, particularly as the content of such submissions is usually confidential and any replies must be duly recorded as responses to official communications received from the Office of the High Commissioner for Human Rights. With regard to content, during this period the Group of Experts was in the process of gathering information and preparing the report required of it and, in order to preserve the confidentiality of information and the professional nature of its work, the Group should not have placed any information online through a website set up for this purpose or through an email account. The adoption of this procedure to receive replies could give rise to numerous questions concerning not only the identity of the bodies providing the Group of Experts with reports but also the nature and verifiability of the substance of those reports.

3. Use of the term "de facto authorities" to designate the armed Houthi militias supported by Iran is inconsistent with the true status of those militias and incompatible with the Security Council resolutions, particularly resolution 2216 (2015), and the reports of the Panel of Experts of the Security Council's Yemen Sanctions Committee. Moreover, resolution 36/31 establishing the Group of Experts contains nothing that implies the possibility of regarding the Houthi militias as "de fact authorities" since it merely refers to "parties to the armed conflict". Consequently, the Group of Experts exceeded its mandate by designating those

militias as "de facto authorities". It is also noteworthy that this term has unacceptable political and legal implications. In addition, the report's description of Abdulmalik Badred-Din al-Houthi (leader of the Houthi militias) as "leader of the revolution" signifies that the members of the Group disregarded or were unaware of the nature of the conflict in Yemen.

4. In its report, the Group of Experts also uses the term "pro-government forces". This term is not used in the Yemeni Armed Forces Act, the legal designation applied in Yemeni legislation being "the Armed and Security Forces".

5. The report makes no mention of an exchange of information between the Group of Experts and the League of Arab States on the provision of support for national, regional and international efforts to promote accountability for human rights violations and abuses in Yemen, as called for in operative paragraph 12 (c) of Human Rights Council resolution 36/31.

6. It is evident that, in the preparation of its report, the Group of Experts based itself on sources of inaccurate information derived from the reports of some non-governmental organizations and material published by the media, without checking and verifying their reliability. The Group also refers to testimonies and statements by unidentified persons whose circumstances are unknown. The visits that the Group undertook were confined to certain areas of Yemen, in most of which Houthi militias were present. Its visits did not cover all parts of the country, even though the legitimate Government of Yemen had invited the Group to visit areas such as Ta'izz, Ma'rib and Shabwah in which gross violations had been committed by Houthi militias. The Group also disregarded the findings of other groups established under the terms of United Nations resolutions, including resolutions 2140 and 2231, as well as the findings of the National Commission of Inquiry into Alleged Violations of Human Rights.

7. Notwithstanding its obligation under paragraph 12 (c) of Human Rights Council resolution 36/31, the Group of Experts failed to provide details of the evidence on which it based its assertion that the Coalition Forces were responsible for human rights violations so that the allegations to that effect could be verified.

8. The report shows that the Group of Experts also failed to respect the limits of its mandate as defined in Human Rights Council resolution 36/31. This is evident from its use of international humanitarian law as a yardstick for its mandate and from its practical disregard of international human rights law which constitutes the proper yardstick for that mandate.

9. The report contains information that is patently incompatible with the Charter of the United Nations, especially Articles 2 and 51 thereof, and Security Council resolution 2216 (2015) in regard to the characterization of the conflict, the causes of its outbreak and the nature of the parties thereto, particularly as the Coalition supporting legitimacy in Yemen was formed at the request of the legitimate Government of Yemen and under the aegis of the United Nations resolutions relating to the conflict in Yemen.

10. The information contained in the report clearly shows that the Group of Experts arrogated broad powers to itself — as it acknowledged in the report — over and above those provided for in the resolution under which it was established.

II. With regard to incidents involving alleged violations of human rights and the conclusions drawn in the report

A. General comment

1. The report largely ignores the real causes of the conflict. It was initiated by armed Houthi militias, supported by Iran, which were condemned by the United Nations and the international community for usurping power, rendering the political transition process inoperative and rejecting all the peaceful endeavours of the United Nations based on the three internationally recognized terms of reference, namely the outcome of the National Dialogue, the Gulf Initiative and the relevant Security Council resolutions including, in particular,

resolution 2216 (2015). The report simply attributes the full responsibility to the Coalition States.

2. The figures, statistics and dates given for some of the incidents referred to in the report were derived from unidentified sources.

3. The report makes no mention of Iran's role in perpetuating and exacerbating the conflict in Yemen through its ongoing support for the armed-Houthi militias in spite of the conclusive evidence, including the report of the Panel of Experts of the Yemen Sanctions Committee and the report of the Secretariat's working group on the implementation of Security Council resolution 2231 (2015) concerning Iran, which the Coalition has presented to international mechanisms.

4. The report makes very little reference to the gross violations of human rights committed by the Houthi militias in Yemen, notwithstanding the odious nature of those violations and the existence of evidence thereof, and the Group of Experts disregards the violations committed by the armed Houthi militias during the period from September 2014 to March 2015, thereby showing itself to be selective in the manner in which it addresses the situation of human rights in Yemen.

5. The report neglects to mention the murder of the former President Ali Abdullah Saleh and the violations that were committed by the armed Houthi militias in its wake.

6. Although the report notes that the armed Houthi militias have repeatedly fired Iranian supplied ballistic missiles at the Kingdom of Saudi Arabia, it neglects to mention that such missiles have targeted religious and civilian sites and have led to civilian casualties.

7. The report fails to mention that the armed Houthi militias supported by Iran have laid large quantities of mines on land and at sea in a random manner, as detailed in the report of the Panel of Experts of the Security Council's Yemen Sanctions Committee.

B. With regard to violations of international law

1. Attacks affecting civilians:

This section of the report focuses on air strikes and bombardments carried out by the Coalition. Although the Group of Experts asserts that it did not receive any specific information on the targeting process from the Coalition States, in actual fact, the latter's replies to the Group's requests for information contained details of the targeting mechanisms and processes applied and, during its visit to the Coalition Command Centre in Riyadh, the Group was given an insight into the Coalition's operating procedures.

In this connection, the Coalition supporting legitimacy in Yemen wishes to emphasize that it has established a number of mechanisms and processes designed to ensure that civilians and civilian objects protected under the rules of international humanitarian law and international human rights law are not targeted. These mechanisms and processes are illustrated by the following:

(a) The process of identifying military targets comprises several stages, beginning with selection and study of the target and verification of its legitimate military nature in order to prevent the occurrence of any targeting errors, all sites in Yemen being presumed to be civilian in the absence of cogent proof to the contrary;

(b) The "no strike" list of non-targetable locations, including those where civilians are present, places of worship, premises of international governmental and non-governmental organizations and bodies, hospitals, schools, archaeological sites and other civilian locations protected under the rules of international humanitarian law, is regularly updated and periodically circulated to all levels of the Coalition Forces in order to ensure that all the persons concerned have knowledge thereof;

(c) Legal advisers have been appointed to work with the planning and targeting cells for the purpose of studying targets so that no site can be targeted until its legitimacy has been verified in conformity with international humanitarian law;

(d) The Coalition Forces supporting legitimacy in Yemen take care to drop warning leaflets in zones containing military targets as a precautionary pre-strike measure to ensure that civilians are not present in the vicinity of those targets;

(e) The Coalition Forces supporting legitimacy in Yemen have extended the periphery of potential collateral damage resulting from air strikes which is considered to be wider than that applied by military institutions in other States;

(f) International relief organizations operating in Yemen have been requested to notify the Coalition of their field locations and the movements of their humanitarian convoys in Yemen and to place their emblems and flags on their locations and convoys so that they can enjoy international protection and be listed as non-targetable.

2. Restrictions on humanitarian access:

The Group of Experts held the Coalition largely responsible for the restrictions imposed on humanitarian access to Yemen. However, this is belied by the major humanitarian role that has been played by the Coalition States, and particularly by the Kingdom of Saudi Arabia and the United Arab Emirates, in facilitating the entry of humanitarian aid under bilateral agreements, through specialized agencies of the United Nations or by issuing numerous permits to ships and transport vessels. In this connection:

- The total humanitarian aid that the Kingdom of Saudi Arabia provided to Yemen from 2015 to July 2018 amounted to US$ 13,412,657,007. The King Salman Humanitarian Aid and Relief Centre has also played a major role in providing humanitarian support for Yemen and its people insofar as, since its establishment, the Centre has funded 269 humanitarian relief projects of various types in all parts of Yemen without distinction;
- During the period from April 2015 to August 2018, the United Arab Emirates provided Yemen with US$ 3.8 billion in aid designed to assist more than 15.8 million Yemenis, including 9.5 million children and 3.2 million women;
- Within the framework of their endeavours to relieve human suffering in Yemen, the United Arab Emirates and the Kingdom of Saudi Arabia donated around US$ 1 billion to support the United Nations 2018 Yemen Humanitarian Response Plan which was designed to benefit more than 13 million needy persons;
- Up to June 2018, the Coalition States' Command Centre had issued more than 25,000 permits for the delivery of relief aid to Yemen through land, sea and air entry points. It had also issued numerous permits for ships to enter Yemeni ports, including Hudaydah, and it is continuing to issue such permits.
- The report makes no mention of the fact that the armed Houthi militias supported by Iran have hindered the entry of humanitarian aid into Yemen, seized oil tankers and ships carrying aid and plundered numerous consignments of aid which they redistributed among their militia fighters instead of the Yemeni civilians for whom the aid was intended. They have also targeted humanitarian convoys, shelled storage depots to prevent their contents from reaching civilians, and even laid naval mines targeting ships passing through sea corridors, thereby hampering the delivery of aid and increasing the cost of sea freight.

3. Allegations of arbitrary detention, enforced disappearance, torture and ill-treatment:

The report contains numerous allegations of arbitrary detention, enforced disappearance, torture, ill-treatment, violations of freedom of expression, sexual violence and child recruitment, for most of which it holds the Coalition States responsible. Although the report indicates that the Group of Experts visited Aden, Sana'a, Sa'dah and Hudaydah, with regard to Aden, for example, it focuses on so-called secret prisons and detention facilities, torture and rape of migrants, deliberately and blatantly disregarding the crimes which the Houthis committed in Aden and other governorates and to which the report attaches little significance while accusing the legitimate Government of Yemen and the Coalition of committing human rights violations. This evident bias detracts considerably from the report's credibility.

(a) The allegations are based on misleading reports from certain non-governmental and media organizations, most of them being taken from previously published reports to which no credence can be attached;

(b) Regarding the allegations of secret prisons in Yemen: The Coalition refuses categorically the allegations of secret prisons in Yemen administered by the Coalition or the existence of violations such as detention, torture or rape. The Coalition confirms that there are no Coalition forces involved with secret prisons. The Coalition reaffirms its full commitment to the International Human Rights Law. The Coalition points out that the Group of Experts should have operated their fact-finding mission by getting the facts from its sources and not only rely upon rumours and allegations driven by political orientations. It is imperative to fully support the legitimate Yemeni Government in order to improve its capacity to manage the prisons in Yemen;

(c) The report contains totally unfounded allegations concerning the subjection of Yemeni civilians to practices of torture, cruel treatment and sexual violence at the hands of individuals from the Coalition States. Before making such allegations, the Group of Experts should have checked and verified their validity through the legitimate Government of Yemen or the Coalition States so that the latter could take appropriate legal measures if warranted.

4. Child recruitment

(a) In paragraph 98 of the report, the Group of Experts alleges that "government and coalition forces detained children fighting with Houthi-Saleh forces and used them in prisoner exchanges". In actual fact, the Coalition Forces supporting legitimacy in Yemen have captured a large number of Houthi militiamen and members of allied armed groups and some of these prisoners were child recruits under 18 years of age (their ages ranged from 8 to 17 years). The Coalition has treated them in a manner consistent with human rights standards and its regional and international obligations by, inter alia, ensuring their protection and rehabilitation and taking measures to prevent their involvement in the conflict. These children were handed over to the legitimate Government of Yemen in the presence of representatives of national, regional and international bodies, including the International Committee of the Red Cross. By way of example, on 1 Ramadan A.H. 1437 (6 June 2016), 52 children who had participated in combat operations with Houthi militias were handed over to a representative of the legitimate Government of Yemen in the presence of representatives of the International Committee of the Red Cross and the Saudi Red Crescent Authority. On 5 Jumada 1 A.H. 1439 (22 January 2018), 27 children who had participated in combat operations with Houthi militias were handed over to a representative of the legitimate Government of Yemen in the presence of representatives of the International Committee of the Red Cross, the Saudi Red Crescent Authority, the Human Rights Commission and the head of the Child Protection Unit of the Coalition Forces supporting legitimacy in Yemen. On 3 Ramadan A.H. 1439 (19 May 2018), the girl "Jamila", whose father had used her as a human shield on the battlefield, was handed over to a representative of the legitimate Government of Yemen in the presence of representatives of the International Committee of the Red Cross, the Saudi Red Crescent Authority and the head of the Child Protection Unit. The legitimate Government of Yemen also confirmed that seven children whose handover on 13 August 2018 was monitored by the Child Protection Unit of the Coalition Forces had been returned to their families.

(b) Notwithstanding this Iranian-backed insurgency by armed Houthi militias and the inhuman manner in which they are behaving, the Coalition remains totally committed to protect all civilians in Yemen, and particularly children, and to conduct all its military operations with great caution and in conformity with the obligations of States under international humanitarian law and international human rights law. The Coalition has continued to cooperate fully with the United Nations with a view to devising additional ways to ensure greater protection for civilians, particularly children, and civilian objects during the conflict in Yemen and is making every possible endeavour to mitigate the impact of the conflict on Yemen's children. To this end, in collaboration with the International Committee of the Red Cross and UNICEF (the United Nations agency responsible for child education and protection programmes), the Coalition has handed over to the legitimate Government of Yemen a number of children who had been recruited by armed Houthi insurgent militias supported by Iran and who were subsequently captured while bearing arms and engaging in

military tasks such as the laying of landmines on the borders of the Kingdom of Saudi Arabia. They have now been reunited with their families. The Coalition has also collaborated with Médecins sans frontiers and other organizations to provide medical care for persons in need thereof and is working closely with the Office of the Special Representative of the Secretary-General of the United Nations for Children and Armed Conflict and her technical team to develop procedures to improve child protection in Yemen. The Coalition wishes to express its full willingness to cooperate further with the Office of the Special Representative of the Secretary-General of the United Nations for Children and Armed Conflict in order to improve the existing procedures in this regard. It is noteworthy that, within the framework of its cooperation with the Office of the Special Representative of the Secretary-General of the United Nations for Children and Armed Conflict, the Coalition supporting legitimacy in Yemen has taken the following measures:

- It has improved the mechanisms for target identification, analysis of the results of airstrikes and circulation of the findings of the analysis in order to avoid any mistakes in the targeting process;
- It has established and upgraded standard operating procedures for debriefing and the investigation and assessment of incidents that have given rise to accusations;
- It has established a mechanism for coordination with the Yemeni liaison cell in Riyadh in order to ensure closer cooperation with child protection organizations inside Yemen;
- It has made arrangements for the technical team of the Special Representative of the Secretary-General for Children and Armed Conflict to provide the requisite training for members of the Child Protection Unit in the Joint Forces Command Centre;
- It has drawn up terms of reference for the Coalition's Child Protection Unit;
- It has established standard operating procedures under which children associated with armed forces or armed groups during combat operations can be transferred from the custody of the military authorities to the custody of civilian authorities under the supervision of the International Committee of the Red Cross.

III. Accountability, the conclusions and recommendations of the Group of Experts and the annexes to the report

1. The Coalition States supporting legitimacy in Yemen emphasize the need for the international community to support the legitimate Government of Yemen and reactivate its national institutions, and especially its security and judicial institutions and its national investigative mechanisms, in order to enable the national courts to play a greater role and fulfil their basic responsibility to ensure justice for victims within a framework of accountability, legal redress and non-impunity.

2. The report, and particularly paragraph 103 thereof, shows that the Group of Experts has diligently sought to cast doubt on the integrity of the National Commission of Inquiry into Alleged Violations of Human Rights in Yemen. Quite apart from the fact that an assessment of the Commission's work falls outside the Group's mandate as defined in Human Rights Council resolution 36/31, the Commission was established under the terms of a Yemeni presidential decree and constitutes a national mechanism for the redress of wrongs. This is therefore a sovereign matter which falls within the domestic jurisdiction of the State and, as such, must be respected in accordance with Article 2, paragraph 7, of the Charter of the United Nations.

3. The Coalition supporting legitimacy in Yemen rejects most of the conclusions reached in the report, and particularly those contained in paragraphs 106, 108 (a) and (b) and 109, since they are based on information and statements received from bodies that are not impartial and, consequently, give rise to suspicions of prejudice in their deliberate attribution of full responsibility to particular parties to the conflict in Yemen.

4. With regard to the annexes, the Coalition supporting legitimacy in Yemen totally refuses to accept the inclusion in the report of an annex containing the names of senior

political and military actors in the Coalition States since this is an indication of double standards and selectivity when addressing the situation of human rights in particular States within the framework of the Human Rights Council. The Coalition requests the removal of these names of senior officials in the Kingdom of Saudi Arabia, the United Arab Emirates and the legitimate Government of Yemen and withdrawal of the annex from the report and from the Council's documents and website.

In light of the above, and considering the numerous methodological errors made by the Group of Experts who prepared the report and the hasty manner in which they appraised the situation of human rights in Yemen, the Coalition States supporting legitimacy in Yemen believe that there is an urgent need for a thorough and objective reappraisal of the situation of human rights in Yemen. The Office of the High Commissioner for Human Rights should provide the legitimate Government of Yemen with all the technical assistance and support that it needs in order to exercise its responsibility and its authority to apply all the principles set forth in international instruments and international human rights law and to fulfil its obligations in this regard. The National Commission of Inquiry into Alleged Violations of Human Rights in Yemen should be supported in its capacity as the competent national mechanism and the political process in Yemen should be furthered in a manner consistent with the three terms of reference and in conformity with the relevant Security Council resolutions and, in particular, resolution 2216 (2015). More intensive humanitarian endeavours should also be made to relieve the suffering of the Yemeni people in a manner that shows due regard for the interests of Yemen and its people.

United Nations A/HRC/39/G/7

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Human Rights Council
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10–28 September 2018
Agenda item 4
Human rights situations that require the Council's attention

Note verbale dated 26 September 2018 from the Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva addressed to the secretariat of the Human Rights Council

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other international organizations in Geneva presents its compliments to the secretariat of the Human Rights Council, and has the honour to attach herewith a letter dated 26 September 2018 addressed to the President of the Council by the Permanent Representative of the Syrian Arab Republic (see annex). The Permanent Mission kindly requests that the present note verbale and the annex thereto be translated into the official languages of the United Nations and circulated as a document of the thirty-ninth session, under agenda item 4.

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Annex to the note verbale dated 26 September 2018 from the Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva addressed to the secretariat of the Human Rights Council

[Original: Arabic]

I am writing to you, pursuant to instructions from my Government, concerning the report by the Commission of Inquiry on the Syrian Arab Republic submitted to the Human Rights Council at its thirty-ninth session under agenda item 4 and published in document A/HRC/39/65. Its authors insist on adopting a one-sided and biased approach to their work, as reflected in all the reports submitted by the Commission in the years since its establishment, and on adopting a politicized approach to the situation in the Syrian Arab Republic, which is totally unacceptable.

The Syrian Government reiterates its refusal to recognize the Commission, which was established and whose mandate was extended by politicized and non-consensual resolutions adopted by the Council on the basis of a vote and without the consent of the State concerned. It also reiterates its refusal to recognize the reports issued by the Commission. With a view to clarifying the facts, we wish to refute a number of the charges made in the report contained in document A/HRC/39/65 and to respond to the fabrications and fallacies that were disseminated during the discussion of the report.

I. The report sets a new precedent by adopting flagrant double standards in the Commission's investigations. It confuses political assessments with professional work, and the results of the Commission's investigations, which are conducted far from the actual scene of the events, are replete with false figures and information, illogical judgments and contradictory charges. In this context, the Syrian Arab Republic deplores the report's politicized and negative attitude to the war crimes and violations of international law perpetrated by the forces of the Turkish regime and its mercenaries in northern Syria, and to the crimes perpetrated by the illegal coalition forces led by the United States and its allies and mercenaries in north-eastern Syria. It also ignores the crime of tripartite aggression committed against the Syrian Arab Republic, which constitutes a clear violation of international law and the Charter of the United Nations. The crimes committed by the invading Turkish forces and their mercenaries, which are mentioned in the report in connection with the Syrian area of Afrin, and which include the indiscriminate and deliberate targeting of civilians and their property, the destruction of archaeological sites designated as protected sites by UNESCO, the targeting of hospitals, medical teams and relief convoys, and the displacement of hundreds of thousands of civilians from their homes, are violations of international humanitarian law equivalent to war crimes. Yet the report adheres to the logic of the political narrative and refrains from any characterization of the acts in legal terms and from any demands of accountability. To make matters worse, the report manipulates the facts and legitimizes the Turkish pretexts, so that its violations of international law and the Charter of the United Nations are endorsed in the report. This deplorable approach is similar to the policy of manipulation that characterizes the Commission's reports, which ignore the continuous war crimes committed by the illegal international coalition led by the United States on Syrian territory. The coalition destroyed the city of Raqqa, although its citizens remained inside, and the Commission of Inquiry remained silent. It also killed and displaced tens of thousands of people on the pretext of combating Daesh terrorists, whose exit from the city it eventually facilitated, transferring them to other areas where they could fight against the Syrian armed forces. The population has not yet returned to the city because of the existence of mines and unexploded ordinance, which have claimed hundreds of civilian victims.

II. The Syrian Arab Republic refuses to publish the Committee's reports on account of the arbitrary charges levelled against the Government's forces and their supporters, alleging that they deliberately target civilians. It requests the authors of the report to submit documents that back up their allegations, and to stop relying on the accounts of non-neutral and non-impartial sources, such as those described as "eyewitnesses" or "civilian entities",

and to refrain from approving reports by governments that are hostile to the Syrian Government. Syria deplores the report's attempts to justify the deliberate indiscriminate shelling of residential neighbourhoods in Damascus by terrorist groups, treating it as a mere reaction, although it constitutes a terrorist act and a clear and unambiguous crime.

III. Syria is taken aback by the persistent claims by the authors of the Commission's report that the Syrian Government fails to take the necessary precautions to protect civilians, although the Government's approach has focused on making arrangements to restore calm and achieve a cessation of hostilities, to promote national reconciliation, and to offer insurgents the opportunity to surrender their weapons and regularize their situation in order to preserve the lives of civilians in the areas where they are located. The Government of the Syrian Arab Republic has repeatedly affirmed its commitment to the norms of international humanitarian law in all the operations conducted by the Syrian armed forces, and has taken all possible measures to protect civilians during the liberation of areas controlled by armed terrorist groups in eastern Ghouta, the south of the country and other areas. The Syrian Government has missed no opportunity to become involved in restoring calm and preventing Syrian bloodshed. In Dara'a, for example, the Syrian State reached an agreement on resolving the situation of all militants by issuing an amnesty to those who handed over their weapons. With regard to the Governorate of Idlib, the Syrian State is determined to continue combating terrorism until the entire territory has been liberated from terrorist organizations, either by means of military operations or through local reconciliation initiatives. It is also determined to respond to the appeals of the Syrian people in Idlib, who have demanded that the State intervene to protect them from terrorist crimes. Contrary to the defamation campaigns promoted by some States that support terrorism and by certain United Nations officials, the protection of civilians is a core concern of the Syrian Government, which gives high priority to reconciliation and has taken all necessary steps to guarantee security for civilians and to meet their basic needs. It has reached agreements in that connection with United Nations humanitarian agencies. The Government welcomed the agreement on the city of Idlib announced in the Russian city of Sochi on 17 September 2018, which was the outcome of intense consultations and close coordination between the Syrian Arab Republic and the Russian Federation. It is a time-bound agreement with specific dates, and stems from previous agreements on de-escalation zones resulting from the Astana process, all of which are based on a commitment to the sovereignty, unity and territorial integrity of the Syrian Arab Republic and the liberation of all Syrian territory from terrorism, terrorists and the illegal presence of foreign military forces.

IV. The Syrian Arab Republic has repeatedly asserted that it has no chemical weapons and it has condemned the use of chemical weapons at any time, in any place and under any pretext as an immoral act. Syria categorically denies the allegations by the authors of the report concerning the Syrian Government's responsibility for the use of chemical weapons. It deplores the Commission's continuous dissemination of false and unsubstantiated charges, although it is well aware that Syria has not possessed any chemical weapons since it disposed of them under the auspices of the Organization for the Prohibition of Chemical Weapons (OPCW) following its accession to the Chemical Weapons Convention. Syria rejects the Commission's persistent overstepping of its mandate and its assumption of the jurisdiction of international bodies with competence in that area. The Commission's persistent dissemination of such serious accusations, based on investigations that fall outside its field of competence, and its disregard of the requirements of the Chemical Weapons Convention and the norms applicable to independent and impartial investigations, have turned the Commission into an accomplice that provides pretexts for military aggression against Syria and that serves the political objectives of its perpetrators.

V. Syria notes with surprise that the Commission's report endorses the false allegations concerning Act No. 10 and completely ignores the clarifications and responses provided by the Syrian Government in official documents submitted to the United Nations. It should be noted in this regard that Act No. 10 is being reviewed by the competent national authorities and that a new law will shortly be enacted that takes into consideration the comments made by some Syrian citizens and responds to their concerns. We reaffirm that private property is protected by the Syrian Constitution, which does not permit any authority to confiscate it.

VI. With regard to displaced persons and refugees, the Government of the Syrian Arab Republic is determined to return all citizens who were compelled by the conditions created by terrorism and unilateral coercive measures to abandon their homes, areas of residence and homeland. It is prepared, in this context, to provide facilities that will enable them to return with dignity to their country, and it appreciates all support and assistance for its efforts to return persons who have been displaced within the country and abroad. It has taken all necessary steps to regularize the situation of displaced persons and to ensure their return as soon as security and basic services have been restored in the various areas liberated from terrorism. It is surprising that the authors of the report ignore the Syrian Government's statement, issued on 10 July 2017, encouraging persons who were forcibly displaced from their lands and country to return. We are also surprised by the Commission's disregard of the decision by the Syrian Council of Ministers to establish a ministerial coordinating committee to coordinate the return of refugees and displaced persons to towns and villages that they abandoned on account of terrorism. These measures enabled hundreds of thousands of internally and externally displaced persons to return to their areas of origin. They included tens of thousands of Daraya residents who, according to the false allegations disseminated by anti-Syrian parties and accepted by the Commission, had been subjected to demographic change and forced displacement.

VII. The Syrian Arab Republic deplores the persistent meddling by the authors of the report into affairs that are unrelated to their mandate, including the political situation and aspects of the political talks, while at the same time ignoring issues that have a direct bearing on the human rights situation in Syria, namely the unilateral coercive economic measures imposed on the Syrian people by the European Union, the United States of America and others. The Syrian Government considers that the Commission's conduct in this regard is due to its submission to the will of the sponsors of resolutions aimed at establishing and extending the Commission's mandate, namely the States whose Governments impose economic, financial and banking sanctions on Syria.

In conclusion, the Syrian Arab Republic reaffirms that the Commission's continuous production of reports in a manner that breaches the principles of impartiality and objectivity, and its insistence on politicizing its allegations in a manner that distorts the facts, alienates its work from the defence of human rights and converts it into a political entity that endorses the allegations propagated by States and other bodies that sponsor terrorism. This does not promote a climate conducive to a political settlement and progress in the inter-Syrian dialogue. On the contrary, it helps to consolidate the climate of instability that encourages terrorist groups and their sponsors to continue committing crimes and to prolong the war against Syria.

I should be grateful to have this letter circulated as an official document of the thirty-ninth session of the Human Rights Council under item 4 of the agenda.

Hussam Edin **Aala**
Ambassador and Permanent Representative